

REMARKS

Claims 14-16, 18, and 26 are pending in the application. Claims 1-13, 17, and 19-25 were previously withdrawn from further consideration. A copy of the claims is provided in the Appendix for the Examiner's convenience. Reconsideration and allowance are respectfully requested in view of the foregoing amendments and following remarks.

Rejection of the Claims

Claims 14-16 18, and 26 were rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 6757403 (Urushibata).

This rejection is respectfully traversed.

Arguments in Support of the Claims

As an initial matter, Applicant wishes to thank the Examiner for the courtesy of a telephone interview on September 13, 2006. During said interview, the Examiner agreed that there are differences between the Applicant's bobbin as described in the specification and the bobbin in Urushibata, but nevertheless maintained that the bobbin recited in the claims is disclosed in Urushibata. The Examiner suggested that Applicant's response should focus on the following limitations: 1) the armature being planar, and 2) the armature mounting-structure being a groove. In view of the final status of this Office Action, Applicant proposes to argue the rejection rather than make any substantive claim amendments at this time.

The present invention, as recited in independent claims 14 and 26, is directed to a receiver for a listening device. The receiver comprises a magnet assembly having, among other things, a coil assembly composed of a bobbin and a conductive wire wound around the bobbin. The bobbin includes an armature-mounting or armature-centering structure such that when an armature (or the fixed portion thereof) is mounted on the armature-mounting or armature-centering structure, the moveable portion of the armature is substantially **centered within the passage** in the bobbin.

The Examiner contends on page 6, first full paragraph of the Office Action that the magnet retainer 28 of Urushibata provides an inherent centering function. Applicant respectfully disagrees with the Examiner's conclusion. MPEP 2112 §IV provides that in order to rely on an inherency rejection, the Examiner must show that the limitation in question is **necessarily** present in the prior art.

The fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic. In re Rijckaert, 9 F.3d 1531, 1534, 28 USPQ2d 1955, 1957 (Fed. Cir. 1993) (reversed rejection because inherency was based on what would result due to optimization of conditions, not what was necessarily present in the prior art); In re Oelrich, 666 F.2d 578, 581-82, 212 USPQ 323, 326 (CCPA 1981). "To establish inherency, the extrinsic evidence 'must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.'" In re Robertson, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999) (citations omitted).

In the present case, the figure and text in Urushibata to which the Examiner refers on page 6 of the Office Action do not say anything about centering the armature. While the Examiner's contention is possible, mere possibility does not satisfy the "necessarily present" requirement of MPEP 2112 §IV. Furthermore, it is equally possible in the construction of Urushibata's device to weld the armature to the magnet retainer 28 in such a way that the armature is not centered and perhaps not even in parallel with the magnets. Urushibata does not suggest otherwise.

Accordingly, or at least the reasons stated above, withdrawal of the rejection against independent claims 14 and 26 is respectfully requested.

Other differences between the claimed invention and Urushibata include the armature-mounting structure being formed in the flanges of the bobbin, as recited in dependent claim 15. Nowhere does Urushibata disclose or suggest an armature-mounting structure being formed in the flanges. Indeed, the bobbin of Urushibata does not even have flanges, as that term is understood by those having ordinary skill in the art. On the contrary, the ends of the bobbin in Urushibata appear to resemble bands more so than flanges.

In any event, all of the dependent claims 15-16 and 18, in addition to reciting independently allowable subject matter, depend from independent claim 14. These claims are therefore allowable for at least the same reasons as independent claim 14. Accordingly, withdrawal of the rejection against the dependent claims is also respectfully requested. Inherent

CONCLUSION

In view of the above, Applicant submits the pending claims are in condition for allowance and the Examiner is respectfully requested to pass this application to issuance.

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Respectfully submitted,

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